

# PATENT COOPERATION TREATY

## PCT


### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 03 FEB 2006

WIPO PCT

Applicant's or agent's file reference 10072PCT		<b>FOR FURTHER ACTION</b>		See Form PCT/PEA/416
International application No. PCT/GB2005/000761		International filing date (day/month/year) 28.02.2005	Priority date (day/month/year) 26.02.2004	
International Patent Classification (IPC) or national classification and IPC A23L3/00				
Applicant ZINETEC LTD				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input checked="" type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand  05.09.2005		Date of completion of this report  02.02.2006		
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer  Vernier, F  Telephone No. +49 89 2399-		



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**Box No. I Basis of the report**

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1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

**Description, Pages**

1-28 as originally filed

**Claims, Numbers**

1-24 as originally filed

**Drawings, Sheets**

1/2-2/2 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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**Box No. IV Lack of unity of invention**

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1. ☒ In response to the invitation to restrict or pay additional fees, the applicant has:
- ☐ restricted the claims.
  - ☒ paid additional fees.
  - ☐ paid additional fees under protest.
  - ☐ neither restricted nor paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is
- ☐ complied with.
  - ☒ not complied with for the following reasons:  
**see separate sheet**
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☒ all parts.
  - ☐ the parts relating to claims Nos. .

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	1-19
	No: Claims	20-24
Inventive step (IS)	Yes: Claims	1-19
	No: Claims	20-24
Industrial applicability (IA)	Yes: Claims	1-24
	No: Claims	

2. Citations and explanations (Rule 70.7):

**see separate sheet**

**Item IV**

The separate groups of inventions are:

- claims 1-19: apparatus for heating products, comprising a retort and shielding means to prevent coolant from damaging the retort; shielding apparatus; method of protecting a retort using a shielding apparatus.

- claims 20-24: apparatus for locating within a retort a plurality of cylindrical objects.

The reasons for which the inventions are not so linked as to form a single general inventive concept, as required by Rule 13.1 PCT, is as follows:

Examining the possible correspondence by technical effect, one finds that the technical effect of the first invention is to prevent coolant from damaging the retort in a heating apparatus and that the technical effect of the second invention is to improve consistency of the heating process.

In conclusion, the application does not meet the requirements of unity of invention as defined in Rules 13.1 and 13.2 PCT.

**Item V**

The following documents are considered:

D1: WO 96/11592 A

D2: PATENT ABSTRACTS OF JAPAN vol. 015, no. 377 (C-0870), 24 September 1991 (1991-09-24) & JP 03 151862 A (TOYO SEIKAN KAISHA LTD), 28 June 1991 (1991-06-28)

D3: US-A-3 020 825

D4: GB 481 584 A

D5: US-A-2 278 434

1. The subject-matter of independent claims 1, 11 and 16 differs from the cited prior art in that it discloses a shielding apparatus for protecting a retort in a heat-treatment apparatus. Thus, the subject-matter of claims 1-19 meets the novelty requirements (Article 33(2) PCT).  
However, the subject-matter of present independent claim 20 (see also comment on the search report with respect to lack of clarity, Art. 6 PCT) is not novel (Article 33(2) PCT) in the light of the disclosures in D3-D5 (studs to locate cans in a retort).
2. In view of the technical problem to be solved (to prevent coolant from damaging the

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(SEPARATE SHEET)**

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retort in a heating apparatus) and its unexpected solution (shielding apparatus), the subject-matter of claims 1-19 can be regarded as involving an inventive step (Article 33(3) PCT) over any of the cited prior art documents.

Discussion of the question whether the subject-matter of claims 20-24 involves an inventive step is only of relevance once novelty has been established.

3. The subject-matter of claims 1-24 meets the requirements of Article 33(4) PCT because it is applicable in the food industry.